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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-552-801

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results and Partial Rescission of Antidumping Duty Administrative Review; 2013-2014

AGENCY: Enforcement and Compliance, International Trade Administration,
Department of Commerce

SUMMARY: The Department of Commerce (“the Department”) published the *Preliminary Results* of the 11th administrative review of the antidumping duty order on certain frozen fish fillets (“fish fillets”) from the Socialist Republic of Vietnam (“Vietnam”) on September 14, 2015.¹ We gave interested parties an opportunity to comment on the *Preliminary Results*. Based upon our analysis of the comments and information received, we made changes to the margin calculations for these final results. The final dumping margins are listed below in the “Final Results of the Administrative Review” section of this notice. The period of review (“POR”) is August 1, 2013, through July 31, 2014.

DATES: Effective (Insert date of publication in the *Federal Register*)

FOR FURTHER INFORMATION CONTACT: Paul Walker or Javier Barrientos, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone 202-482-0413 or 202-482-2243, respectively.

¹ See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2013–2014*, 80 FR 55092 (September 14, 2015) (“*Preliminary Results*”) and accompanying Preliminary Decision Memorandum (“Preliminary Decision Memo”).

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Results* on September 14, 2015.² The Department conducted a verification of Thuan An Production Trading and Service Co., Ltd. (“Tafishco”) and its tollers between September 21, 2015, through October 6, 2015.³ The Department also conducted a verification of the Hung Vuong Group⁴ (“HVG”) between November 10, 2015, through November 24, 2015.⁵ On January 11, 2016, the Department extended the deadline for the final results to March 14, 2016.⁶ As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government.⁷ All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the final results of this administrative review is now March 18, 2016. Between February 11 and February 22, 2016, interested parties submitted case

² See *Preliminary Results*.

³ See Memorandum to the File, from Jerry Huang, International Trade Analyst, Office V, and Javier Barrientos, International Trade Analyst, Office V, “Verification of the Sales and Factors of Production Responses of Thuan An Production Trading and Service Co., Ltd. in the 2013-2014 Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam,” dated February 2, 2016.

⁴ The Hung Vuong Group includes: An Giang Fisheries Import & Export Joint Stock Company, Asia Pangasius Company Limited (“Asia Pangasius”), Europe Joint Stock Company, Hung Vuong Joint Stock Company, Hung Vuong Mascato Company Limited, Hung Vuong – Vinh Long Co., Ltd., and Hung Vuong – Sa Dec Co., Ltd. See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the Antidumping Duty Administrative Review and New Shipper Review*; 2011–2012, 79 FR 19053 (April 7, 2014) and accompanying Issues and Decision Memorandum at 3.

⁵ See Memorandum to the File, from Javier Barrientos, International Trade Analyst, Office V, and Kenneth Hawkins, International Trade Analyst, Office V, “Verification of the Sales and Factors of Production Responses of Agifish and HVG in the 2013-2014 Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam,” dated February 5, 2016.

⁶ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations from Jerry Huang, International Trade Analyst, Office V, Antidumping and Countervailing Duty Operations, “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,” dated January 11, 2016.

⁷ See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, “Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas,” dated January 27, 2016.

and rebuttal briefs. On March 3, 2016, the Department held a closed hearing and a public hearing limited to issues raised in the case and rebuttal briefs.

Scope of the Order

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*) and *Pangasius Micronemus*. These products are classifiable under tariff article code 0304.62.0020 (Frozen Fish Fillets of the species *Pangasius*, including basa and tra), and may enter under tariff article codes 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100 of the Harmonized Tariff Schedule of the United States (“HTSUS”).⁸ Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.⁹

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this review are addressed in the Issues and Decision Memorandum. A list of the issues which parties raised is attached to this notice as an appendix. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit (“CRU”), Room B8024 of the main Department of Commerce building, as well as electronically via Enforcement and Compliance’s Antidumping and

⁸ Until June 30, 2004 these products were classifiable under HTSUS 0304.20.6030, 0304.20.6096, 0304.20.6043 and 0304.20.6057. From July 1, 2004 until December 31, 2006 these products were classifiable under HTSUS 0304.20.6033. From January 1, 2007 until December 31, 2011 these products were classifiable under HTSUS 0304.29.6033. On March 2, 2011 the Department added two HTSUS numbers at the request of U.S. Customs and Border Protection (“CBP”) that the subject merchandise may enter under: 1604.19.2000 and 1604.19.3000, which were changed to 1604.19.2100 and 1604.19.3100 on January 1, 2012. On January 1, 2012 the Department added the following HTSUS numbers at the request of CBP: 0304.62.0020, 0305.59.0000, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100.

⁹ For a complete description of the scope of the order, see Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Issues and Decision Memorandum for the Final Results of the 11th Antidumping Duty Administrative Review; 2013-2014,” at 2-3 (“Issues and Decision Memorandum”), dated concurrently with and hereby adopted by this notice.

Countervailing Duty Centralized Electronic Service System (“ACCESS”). ACCESS is available to registered users at <http://access.trade.gov> and in the CRU. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the *Preliminary Results*

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, and for the reasons explained in the Issues and Decision Memorandum, we revised the margin calculations for HVG and Tafishco. The Surrogate Values Memo contains further explanation of our changes to the surrogate values selected for HVG’s and Tafishco’s factors of production.¹⁰

Final Determination of No Shipments

In the *Preliminary Results*, the Department preliminarily determined that An Giang Agriculture and Food Import-Export Joint Stock Company, Asia Commerce Fisheries Joint Stock Company, Binh An Seafood Joint Stock Company, Dai Thanh Seafoods Company Limited, Fatifish Company Limited, Golden Quality Seafood Corporation, Hiep Thanh Seafood Joint Stock Company, Hoa Phat Seafood Import-Export and Processing JSC, Ngoc Ha Co., Ltd. Food Processing and Trading, Quang Minh Seafood Company, Limited, QVD Food Company (“QVD”),¹¹ Ltd., Saigon-Mekong Fishery Co., Ltd., Southern Fisheries Industries Company,

¹⁰ See Memorandum to the File, through Paul Walker, Program Manager, from Javier Barrientos, Case Analyst, “Eleventh Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Surrogate Values for the Final Results,” dated concurrently with this notice.

¹¹ This rate is also applicable to QVD Dong Thap Food Co., Ltd. (“QVD Dong Thap”) and Thuan Hung Co., Ltd. (“Thufico”). In the second review of this order, the Department found QVD, QVD Dong Thap and Thufico to be a single entity and, because there have been no changes to this determination since that administrative review, we continue to find these companies to be part of a single entity. See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53387 (September 11, 2006).

Ltd., TG Fishery Holdings Corporation, and To Chau Joint Stock Company (collectively “No Shipment Companies”) did not have any reviewable transactions during the POR.¹² Consistent with the Department’s refinement to its assessment practice in non-market economy (“NME”) cases, we completed the review with respect to the above-named companies.¹³ Based on the certifications submitted by No Shipment Companies, we continue to determine that these companies did not have any reviewable transactions during the POR. As noted in the “Assessment Rates” section below, the Department intends to issue appropriate instructions to CBP for the above-named companies based on the final results of the review.

Vietnam-Wide Entity

We noted in the *Preliminary Results* that a review was requested, but not rescinded, for Asia Pangasius, Nam Phuong Seafood Co., Ltd. (“Nam Phuong”), NTACO Corporation (“NTACO”), Thien Ma Seafood Co., Ltd. (“Thien Ma”), and Thufico.¹⁴ As noted below, and consistent with Comment VII of the Issues and Decision Memorandum, the Department is rescinding this review with respect to NTACO and Nam Phuong. Consistent with Comment IV of the Issues and Decision Memorandum, the Department finds that Asia Pangasius is a part of HVG, and is eligible for a separate rate. Consistent with Comment V of the Issues and Decision Memorandum, and as noted above, the Department finds that Thufico is a part of QVD, and made no shipments during the POR. As a result of these decisions, we no longer find that Asia Pangasius, Nam Phuong, NTACO and Thufico are a part of the Vietnam-wide entity.

Consistent with Comment III of the Issues and Decision Memorandum, we find that two of Tafishco’s uncooperative tollers are a part of the Vietnam-wide entity. Consistent with

¹² See *Preliminary Results*, 80 FR at 55093.

¹³ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-65695 (October 24, 2011).

¹⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 58729 (September 30, 2014); *Preliminary Results*, 80 FR at 55093.

Comment VI of the Issues and Decision Memorandum, we find that Caseamex is not entitled to a separate rate. Moreover, Thien Ma did not submit completed a separate rate application or certification. Accordingly, for the final results, the Department finds that Tafishco's uncooperative tollers, Caseamex, and Thien Ma are a part of the Vietnam-wide entity.

Partial Rescission of Administrative Review

In accordance with 19 CFR 351.214(j), and in accordance with our decision in Comment VII of the Issues and Decision Memorandum, the Department is rescinding this review with respect to NTACO and Nam Phuong.

Final Results of the Review

The dumping margins for the final results of this administrative review are as follows:

Exporter	Weighted-Average Margin (Dollars/Kilogram) ¹⁵
Hung Vuong Group	0.41
Thuan An Production Trading and Services Co., Ltd.	0.97
Basa Joint Stock Company	0.69
Cadovimex II Seafood Import-Export and Processing Joint Stock Company	0.69
Cafatex Corporation	0.69
C.P. Vietnam Corporation	0.69
Cuu Long Fish Joint Stock Company	0.69
East Sea Seafoods LLC	0.69
GODACO Seafood Joint Stock Company	0.69
Green Farms Seafood Joint Stock Company	0.69
Hoang Long Seafood Processing Company Limited	0.69

¹⁵ In the third administrative review of this order, the Department determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission*, 73 FR 15479 (March 24, 2008).

Nam Viet Corporation	0.69
NTSF Seafoods Joint Stock Company	0.69
Seafood Joint Stock Company No. 4 - Branch Dong Tam Fisheries Processing Company	0.69
Viet Phu Foods and Fish Corporation	0.69
Vinh Quang Fisheries Joint-Stock Company	0.69

Disclosure

The Department will disclose calculations performed for these final results to the parties within five days of the date of publication of this notice, in accordance with section 351.224(b) of the Department's regulations.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review.

For assessment purposes, we calculated importer (or customer)-specific assessment rates for merchandise subject to this review. We will continue to direct CBP to assess importer specific assessment rates based on the resulting per-unit (*i.e.*, per kg) rates by the weight in kgs of each entry of the subject merchandise during the POR. Specifically, we calculated importer specific duty assessment rates on a per-unit rate basis by dividing the total dumping margins (calculated as the difference between normal value and export price, or constructed export price) for each importer by the total sales quantity of subject merchandise sold to that importer during the POR. If an importer (or customer)-specific assessment rate is de minimis (*i.e.*, less than 0.50

percent), the Department will instruct CBP to assess that importer (or customer's) entries of subject merchandise without regard to antidumping duties, in accordance with 19 CFR 351.106(c)(2).

The Department determines that No Shipment Companies did not have any reviewable transactions during the POR. As a result, any suspended entries that entered under these exporter's case numbers (*i.e.*, at that exporter's rate) will be liquidated at the Vietnam-wide rate.¹⁶

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the cash deposit rate will be the rate established in the final results of review (except, if the rate is zero or *de minimis*, *i.e.*, less than 0.5 percent, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed Vietnamese and non-Vietnamese exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Vietnamese exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the Vietnam-wide rate of \$2.39 per kg; and (4) for all non-Vietnamese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnamese exporters that supplied that non-Vietnamese exporter. The deposit requirements, when imposed, shall remain in effect until further notice.

¹⁶ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011); see also Preliminary Decision Memo at 4-5.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these administrative reviews and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

March 18, 2016__
Date

Appendix

List of Topics Discussed in the Final Decision Memorandum

Comment I	Application of Facts Available to HVG and Tafishco
Comment II	Application of Facts Available to HVG's Farming Factors
Comment III	Application of Adverse Facts Available to Certain Tafishco's Tollers
Comment IV	Assignment of Vietnam-wide Rate to Asia Pangasius and HVG
Comment V	Assignment of Vietnam-wide Rate to QVD Food Company Ltd.
Comment VI	Assignment of Vietnam-wide Rate to Can Tho Import-Export Joint Stock Company
Comment VII	Rescission of Review with Respect to NTACO Corporation and Nam Phuong Seafood Company Ltd.
Comment VIII	Combination Rates
Comment IX	Surrogate Value for Fish Feed
Comment X	Surrogate Value for Fingerlings
Comment XI	Surrogate Value for Water
Comment XII	Application of Marine Insurance
Comment XIII	Packing
	A. Packing Type Should Not be a Physical Characteristic
	B. Tafishco's Packing Materials Factors of Production Usage Rates
	C. Surrogate Value for Strap
	D. Surrogate Value for Tape
Comment XIV	By-Products
	A. Whether to Value Certain By-products
	B. Surrogate Value for Fish Waste
Comment XV	Customs Instructions

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